

APR 19 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

ANTHONY BAILEY,

Plaintiff - Appellant,

v.

JACKIE CRAWFORD; et al.,

Defendants - Appellees.

No. 03-16666

D.C. No. CV-00-00615-DWH

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
David W. Hagen, District Judge, Presiding

Submitted April 13, 2006**

Before: SILVERMAN, McKEOWN, and PAEZ, Circuit Judges.

Former Nevada state prisoner Anthony Bailey appeals pro se from the district court's judgment following bench trial in his 42 U.S.C. § 1983 action alleging he was transferred to a higher security prison in retaliation for exercising

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

his constitutional rights. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review the district court's findings of fact for clear error, and its conclusions of law de novo. *Lentini v. Cal. Ctr. for the Arts, Escondido*, 370 F.3d 837, 843 (9th Cir. 2004). We review for abuse of discretion the district court's evidentiary rulings. *See Janes v. Wal-Mart Stores, Inc.*, 279 F.3d 883, 886 (9th Cir. 2002). We affirm.

The district court did not err in concluding that Bailey failed to demonstrate either that he was retaliated against for exercising his constitutional rights or that his transfer did not advance legitimate penological goals. *See Bruce v. Ylst*, 351 F.3d 1283, 1288 (9th Cir. 2003).

Bailey's contention that the district court erred in admitting hearsay lacks merit. *See* Fed. R. Evid. 803(8)(C) (allowing the admission of "factual findings resulting from an investigation made pursuant to authority granted by law"); *see also United States v. Whitman*, 771 F.2d 1348, 1352 (9th Cir. 1985) (admitting statements by government informant under an exception to the hearsay rule because they were not being offered for the truth of the matter asserted).

Bailey's remaining contentions also lack merit.

AFFIRMED.